

AMENDED IN SENATE MAY 11, 2010
AMENDED IN SENATE APRIL 28, 2010
AMENDED IN SENATE MARCH 25, 2010

SENATE BILL

No. 1411

Introduced by Senator Simitian

February 19, 2010

An act to add Section 528.5 to the Penal Code, relating to impersonation.

LEGISLATIVE COUNSEL'S DIGEST

SB 1411, as amended, Simitian. Impersonation: Internet.

Existing law makes it a crime to falsely impersonate another in either his or her private or official capacity, as specified. Existing law also makes it a crime to knowingly access and, without permission, alter, damage, delete, destroy, or otherwise use any data, computer, computer system, or computer network in order to devise or execute any scheme or artifice to defraud, deceive, or extort, or wrongfully control or obtain money, property, or data. For a violation thereof, in addition to specified criminal penalties, existing law authorizes an aggrieved party to bring a civil action against the violator, as specified.

This bill would provide that any person who knowingly and without consent credibly impersonates another *actual* person through or on an Internet Web site or by other electronic means, as specified, for purposes of harming, intimidating, threatening, or defrauding another person is guilty of a misdemeanor. The bill would, in addition to the specified criminal penalties, authorize a person who suffers damage or loss to bring a civil action against any person who violates that provision, as

specified. Because the bill would create a new crime, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 528.5 is added to the Penal Code, to read:
2 528.5. (a) ~~Any~~ *Notwithstanding any other provision of law,*
3 *any* person who knowingly and without consent credibly
4 impersonates another *actual* person through or on an Internet Web
5 site or by other electronic means for purposes of harming,
6 intimidating, threatening, or defrauding another person is guilty
7 of a public offense punishable pursuant to subdivision (d).
8 (b) For purposes of this section, an impersonation is credible if
9 another person would reasonably believe, or did reasonably believe,
10 that the defendant was or is the person who was impersonated.
11 (c) For purposes of this section, “electronic means” shall include
12 opening an e-mail account or an account or profile on a social
13 networking Internet Web site in another person’s name.
14 (d) A violation of subdivision (a) is punishable by a fine not
15 exceeding one thousand dollars (\$1,000), or by imprisonment in
16 a county jail not exceeding one year, or by both that fine and
17 imprisonment.
18 (e) In addition to any other civil remedy available, a person who
19 suffers damage or loss by reason of a violation of subdivision (a)
20 may bring a civil action against the violator for compensatory
21 damages and injunctive relief or other equitable relief pursuant to
22 paragraphs (1), (2), (4), and (5) of subdivision (e) and subdivision
23 (g) of Section 502.
24 (f) *This section shall not preclude prosecution under any other*
25 *law.*
26 SEC. 2. No reimbursement is required by this act pursuant to
27 Section 6 of Article XIII B of the California Constitution because
28 the only costs that may be incurred by a local agency or school

1 district will be incurred because this act creates a new crime or
2 infraction, eliminates a crime or infraction, or changes the penalty
3 for a crime or infraction, within the meaning of Section 17556 of
4 the Government Code, or changes the definition of a crime within
5 the meaning of Section 6 of Article XIII B of the California
6 Constitution.

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